

S.B. Civil Misc. Appeal No.1247/2006

State of Rajasthan and others.

vs.

M/s. Hari Singh & Co.

Date : 19.9.2006

HON'BLE MR. PRAKASH TATIA, J.

Mr. N Mulchandani, Dy.GA, for the appellants.

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Heard learned counsel for the appellant.

This appeal is directed against the order of the Civil Court dated 28.3.2006 by which the objection petition filed by the appellant State against the award dated 10.4.2003 under Section 34 of the Arbitration Act was dismissed.

According to learned counsel for the appellants, the learned Arbitrator committed serious error of law and without considering the relevant documents passed the award in favour of the respondent contractor. It is submitted that for certain goods, which were rejected by the State, the contractor has raised the claim. The learned Arbitrator has not considered that any amount cannot be paid to the contractor for the rejected goods. It is also submitted that some relevant documents were not considered by the learned Arbitrator.

I considered the submissions of learned counsel for the appellant and perused the reasons given in the award as well as the reasons given by the learned District Judge, Bikaner in the order dated 28.3.2006.

It appears from the award that the learned Arbitrator framed the issues on the basis of the claim and contest and thereafter, decided the question of facts. While doing so, the learned Arbitrator has taken note of the contention of both the parties with respect to not only the claim but of defence of the State including the stand of the State that some of the tiles were in fact rejected and, therefore, the contractor was not entitled for payment. The learned Arbitrator considered this aspect of the matter also and thereafter passed the award. No ground is made out on the basis of which the award could be challenged under Section 34 of the Arbitration Act.

In view of the above, I do not find any merit in this appeal and accordingly, this appeal is hereby dismissed.

(PRAKASH TATIA), J.

S.Phophaliya